



The Judiciary, State of Hawai'i

Testimony to the Thirty-First Legislature, Regular Session of 2022

House Committee on Corrections, Military, & Veterans

Representative Takashi Ohno, Chair

Representative Sonny Ganaden, Vice Chair

Wednesday, February 9, 2022, 10:00 AM

State Capitol, Conference Room 430

VIA VIDEOCONFERENCE

WRITTEN TESTIMONY ONLY

by:

Shellie Park-Hoapili

Staff Attorney, Hawai'i Supreme Court

Bill No. and Title: House Bill No. 2117, Relating to the Hawai'i Code of Military Justice.

Purpose: To update the Hawai'i Code of Military Justice, by repealing chapter 124A, Hawai'i Revised Statutes, and adding a new chapter to promote order and discipline in the State Military Forces by fostering an independent military justice system and updating nonjudicial punishment and courts-martial procedures.

Judiciary's Position:

The Judiciary offers the following comment.

Under § -107(e), "[a]n appeal under this section shall be forwarded to the court prescribed in section -113. In ruling on an appeal under this section, the appeals court may act only with respect to matters of law." Section -113 governs review by state appellate authority and provides for an appeal "in the manner provided for civil appeals from the circuit courts, and within the time provided by rules of court."

As currently drafted, § -107(e) appears to restrict the appellate courts' inherent judicial powers to completely review matters that come properly before the courts. The Judiciary respectfully requests that the last sentence of § -107(e) -- "In ruling on an appeal under this section, the appeals court may act only with respect to matters of law." -- be deleted.

Thank you for the opportunity to submit testimony on this measure.

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TESTIMONY ON SENATE BILL, HB2117
RELATING TO THE HAWAII CODE OF MILITARY JUSTICE

PRESENTATION TO
THE COMMITTEE ON
CORRECTIONS, MILITARY, & VETERANS

BY

MAJOR GENERAL KENNETH S. HARA
ADJUTANT GENERAL
DIRECTOR OF THE HAWAII EMERGENCY MANAGEMENT AGENCY
AND HOMELAND SECURITY ADVISOR

FEBRUARY 09, 2022

Chair Ohno, Vice Chair Ganadan, and Members of the Committee on Corrections, Military, & Veterans.

I am Major General Kenneth Hara, Adjutant General, Director of the Hawaii Emergency Management Agency and Homeland Security Advisor.

The Department of Defense (DOD) provides written testimony in **SUPPORT** of HB2117.

The Hawaii Code of Military Justice (HCMJ) was originally enacted in 1982. This measure if passed will update the HCMJ into the 21st Century. This update is needed to give commanders the tools they need to maintain good order and discipline within the State Military Forces while simultaneously protecting the due process rights of the accused. These changes were based on a model provided by the National Guard Bureau, and also brings non-judicial punishment and court-martial procedures further in line with the Uniform Code of Military Justice as contained in title 10 United States Code. In addition, this update was coordinated with the Judiciary. Finally, this revision will further develop confidence in an independent military justice system.

Thank you for this opportunity to provide testimony in support of HB 2117.

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